

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

GREEN MOUNTAIN GLASS, LLC AND  
CULCHROME, LLC,

Plaintiffs,

v.

SAINT-GOBAIN CONTAINERS, INC. dba  
VERALLIA NORTH AMERICA,

Defendant.

Civil Action No.14-cv-392-GMS

JURY TRIAL DEMANDED

**SUPPLEMENTAL DECLARATION OF MICHAEL J. LASINSKI IN SUPPORT OF  
PLAINTIFFS' MOTION FOR PREJUDGMENT INTEREST, ENHANCED DAMAGES,  
ATTORNEYS' FEES, AND CONDITIONAL MOTION FOR A NEW TRIAL  
REGARDING ARDAGH'S INFRINGEMENT OF U.S. PATENT NO. 6,230,521**

I, MICHAEL J. LASINSKI, declare as follows:

1. I am a Managing Director and the Chief Executive Officer of 284 Partners, LLC, a professional services firm focused on intellectual property valuation, litigation consulting, IP strategy, and IP transactional services. I was retained by plaintiffs to serve as an expert in the above-entitled action. Based on personal knowledge, if called upon, I could and would competently testify to the following.

2. I have been asked to prepare various prejudgment interest calculations in order to assist the Court. On May 19, 2017, I submitted a declaration regarding prejudgment interest using the U.S. Prime Rate compounded quarterly. The calculations detailed in that declaration remain unchanged and are attached as Exhibits 1.1 to 1.4.<sup>1</sup>

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<sup>1</sup> I have excluded Exhibits 2.1 through 2.11 of my initial declaration from the attached, as these calculations also remain unchanged.

3. Documents produced in this matter indicate that Green Mountain has incurred borrowing costs of 9% per annum.<sup>2</sup> I have therefore been asked to perform additional prejudgment interest calculations using a 9% interest rate compounded quarterly through June 30, 2017 (*i.e.*, the end of Q2 2017). As detailed in Exhibits 3.1 and 3.2 (attached hereto), my calculations in this regard yield total prejudgment interest through June 30, 2017 of \$32,361,026.09.

4. In addition to my calculations of prejudgment interest through June 30, 2017, I have also been asked to prepare a calculation of daily interest during the period July 1, 2017 through September 30, 2017 (*i.e.*, Q3 2017) using this same 9% interest rate. As detailed in Exhibit 3.3, my calculations in this regard yield daily interest of \$19,570.73 per day. If necessary, this daily amount can be multiplied by the appropriate number of days subsequent to June 30, 2017 and added to the \$32,361,026.09 discussed above.

5. The calculations described above confirm my earlier statement that the Prime Rate serves as a conservative measure because plaintiffs borrowing cost would have been higher than the Prime Rate during this period.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 23rd day of June, 2017, at Ann Arbor, Michigan.

  
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MICHAEL J. LASINSKI

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<sup>2</sup> See, for example, GMG00000113206-208 at 206.

*Green Mountain Glass LLC et al. v. Saint-Gobain Containers, Inc. et al.*

**PREJUDGMENT INTEREST THROUGH JUNE 30, 2017**

Exhibit 1.1

Ending Accrued Royalties & Interest Through June 30, 2017 (1)	\$60,661,678.22
Jury Royalty Award (2)	<u>\$50,313,779.04</u>
Prejudgment Interest Through June 30, 2017	<u><u>\$10,347,899.18</u></u>

**Notes:**

(1) Exhibit 1.2.

(2) Judgment, April 26, 2017.

Green Mountain Glass LLC et al. v. Saint-Gobain Containers, Inc. et al.

**ACCRUED ROYALTIES & PREJUDGEMENT INTEREST THROUGH JUNE 30, 2017**

Exhibit 1.2

Interest Period	Starting Accrued Royalties & Interest (1)	Prior Quarter Royalties (2)	Total Accrued Royalties & Interest (3)	Interest Rate (4)	Ending Accrued Royalties & Interest (5)
Q2 2008	-	\$55,178	\$55,178	5.08%	\$55,866
Q3 2008	\$55,866	\$1,525,620	\$1,581,486	5.00%	\$1,600,894
Q4 2008	\$1,600,894	\$1,698,660	\$3,299,554	4.06%	\$3,332,536
Q1 2009	\$3,332,536	\$1,531,680	\$4,864,216	3.25%	\$4,903,265
Q2 2009	\$4,903,265	\$1,505,916	\$6,409,181	3.25%	\$6,460,633
Q3 2009	\$6,460,633	\$1,823,688	\$8,284,321	3.25%	\$8,350,826
Q4 2009	\$8,350,826	\$1,876,728	\$10,227,554	3.25%	\$10,309,659
Q1 2010	\$10,309,659	\$1,666,776	\$11,976,435	3.25%	\$12,072,579
Q2 2010	\$12,072,579	\$1,834,824	\$13,907,403	3.25%	\$14,019,050
Q3 2010	\$14,019,050	\$1,902,360	\$15,921,410	3.25%	\$16,049,224
Q4 2010	\$16,049,224	\$1,895,616	\$17,944,840	3.25%	\$18,088,897
Q1 2011	\$18,088,897	\$1,821,528	\$19,910,425	3.25%	\$20,070,263
Q2 2011	\$20,070,263	\$1,912,539	\$21,982,801	3.25%	\$22,159,275
Q3 2011	\$22,159,275	\$1,884,181	\$24,043,456	3.25%	\$24,236,473
Q4 2011	\$24,236,473	\$2,008,676	\$26,245,149	3.25%	\$26,455,840
Q1 2012	\$26,455,840	\$1,750,193	\$28,206,033	3.25%	\$28,432,466
Q2 2012	\$28,432,466	\$1,773,643	\$30,206,108	3.25%	\$30,448,597
Q3 2012	\$30,448,597	\$1,812,817	\$32,261,414	3.25%	\$32,520,403
Q4 2012	\$32,520,403	\$1,909,929	\$34,430,332	3.25%	\$34,706,733
Q1 2013	\$34,706,733	\$1,858,379	\$36,565,111	3.25%	\$36,858,649
Q2 2013	\$36,858,649	\$1,922,154	\$38,780,803	3.25%	\$39,092,128
Q3 2013	\$39,092,128	\$2,123,327	\$41,215,455	3.25%	\$41,546,325
Q4 2013	\$41,546,325	\$2,042,211	\$43,588,536	3.25%	\$43,938,457
Q1 2014	\$43,938,457	\$1,860,217	\$45,798,673	3.25%	\$46,166,336
Q2 2014	\$46,166,336	\$1,675,473	\$47,841,809	3.25%	\$48,225,874
Q3 2014	\$48,225,874	\$1,830,389	\$50,056,263	3.25%	\$50,458,106
Q4 2014	\$50,458,106	\$1,835,808	\$52,293,914	3.25%	\$52,713,720
Q1 2015	\$52,713,720	\$1,713,821	\$54,427,541	3.25%	\$54,864,475
Q2 2015	\$54,864,475	\$1,261,448	\$56,125,923	3.25%	\$56,576,492
Q3 2015	\$56,576,492	-	\$56,576,492	3.25%	\$57,030,677
Q4 2015	\$57,030,677	-	\$57,030,677	3.29%	\$57,494,176
Q1 2016	\$57,494,176	-	\$57,494,176	3.50%	\$57,990,779
Q2 2016	\$57,990,779	-	\$57,990,779	3.50%	\$58,491,671
Q3 2016	\$58,491,671	-	\$58,491,671	3.50%	\$58,996,890
Q4 2016	\$58,996,890	-	\$58,996,890	3.55%	\$59,513,104
Q1 2017	\$59,513,104	-	\$59,513,104	3.79%	\$60,069,786
Q2 2017	\$60,069,786	-	\$60,069,786	4.00%	\$60,661,678

**Notes:**

(1) "Starting Accrued Royalties & Interest" equals prior period "Ending Accrued Royalties & Interest."

(2) Exhibit 2.1 (as attached to the May 19, 2017 Declaration of Michael J. Lasinski).

(3) Calculated as "Starting Accrued Royalties & Interest" plus "Prior Quarter Royalties."

(4) Exhibit 1.4.

(5) Calculated as "Total Accrued Royalties & Interest" \* ((1 + Interest Rate) ^ 0.25).

*Green Mountain Glass LLC et al. v. Saint-Gobain Containers, Inc. et al.*

**DAILY INTEREST: JULY 1, 2017 - SEPTEMBER 30, 2017**

Exhibit 1.3

<b>Interest Period</b>	<b>Starting Accrued Royalties &amp; Interest (1)</b>	<b>Prior Quarter Royalties (2)</b>	<b>Total Accrued Royalties &amp; Interest (3)</b>	<b>Interest Rate (4)</b>	<b>Ending Accrued Royalties &amp; Interest (5)</b>
Q2 2017	\$60,069,786	-	\$60,069,786	4.00%	\$60,661,678
Q3 2017	\$60,661,678	-	\$60,661,678	4.00%	\$61,259,402
Total Interest - Q3 2017					\$597,724
Days in Period					92
Daily Interest - Q3 2017					\$6,497.00

**Notes:**

(1) "Starting Accrued Royalties & Interest" equals prior period "Ending Accrued Royalties & Interest." Q2 2017 per Exhibit 1.2.

(2) Exhibit 1.2.

(3) Calculated as "Starting Accrued Royalties & Interest" plus "Prior Quarter Royalties."

(4) Exhibit 1.4. Holds current prime rate constant.

(5) Calculated as "Total Accrued Royalties & Interest" \* ((1 + Interest Rate) ^ (1/4)).

*Green Mountain Glass LLC et al. v. Saint-Gobain Containers, Inc. et al.*

**PRIME INTEREST RATE**

Exhibit 1.4

<b>Effective Date</b>	<b>Prime Rate</b>
3/18/2008	5.25%
4/30/2008	5.00%
10/8/2008	4.50%
10/29/2008	4.00%
12/16/2008	3.25%
12/17/2015	3.50%
12/15/2016	3.75%
3/16/2017	4.00%

**Source:**

<https://www.jpmorganchase.com/corporate/About-JPMC/historical-prime-rate.htm>

*Green Mountain Glass LLC et al. v. Saint-Gobain Containers, Inc. et al.*

**PREJUDGMENT INTEREST THROUGH JUNE 30, 2017 AT 9% INTEREST RATE**

Exhibit 3.1

Ending Accrued Royalties & Interest Through June 30, 2017 (1)	\$82,674,805.13
Jury Royalty Award (2)	<u>\$50,313,779.04</u>
Prejudgment Interest Through June 30, 2017 at 9% Interest Rate	<u><u>\$32,361,026.09</u></u>

**Notes:**

(1) Exhibit 3.2.

(2) Judgment, April 26, 2017.

*Green Mountain Glass LLC et al. v. Saint-Gobain Containers, Inc. et al.*

**ACCRUED ROYALTIES & PREJUDGEMENT INTEREST THROUGH JUNE 30, 2017 AT 9% INTEREST RATE**

Exhibit 3.2

<b>Interest Period</b>	<b>Starting Accrued Royalties &amp; Interest (1)</b>	<b>Prior Quarter Royalties (2)</b>	<b>Total Accrued Royalties &amp; Interest (3)</b>	<b>Interest Rate (4)</b>	<b>Ending Accrued Royalties &amp; Interest (5)</b>
Q2 2008	-	\$55,178	\$55,178	9.00%	\$56,380
Q3 2008	\$56,380	\$1,525,620	\$1,582,000	9.00%	\$1,616,453
Q4 2008	\$1,616,453	\$1,698,660	\$3,315,113	9.00%	\$3,387,310
Q1 2009	\$3,387,310	\$1,531,680	\$4,918,990	9.00%	\$5,026,117
Q2 2009	\$5,026,117	\$1,505,916	\$6,532,033	9.00%	\$6,674,289
Q3 2009	\$6,674,289	\$1,823,688	\$8,497,977	9.00%	\$8,683,047
Q4 2009	\$8,683,047	\$1,876,728	\$10,559,775	9.00%	\$10,789,748
Q1 2010	\$10,789,748	\$1,666,776	\$12,456,524	9.00%	\$12,727,804
Q2 2010	\$12,727,804	\$1,834,824	\$14,562,628	9.00%	\$14,879,776
Q3 2010	\$14,879,776	\$1,902,360	\$16,782,136	9.00%	\$17,147,620
Q4 2010	\$17,147,620	\$1,895,616	\$19,043,236	9.00%	\$19,457,963
Q1 2011	\$19,457,963	\$1,821,528	\$21,279,491	9.00%	\$21,742,920
Q2 2011	\$21,742,920	\$1,912,539	\$23,655,459	9.00%	\$24,170,631
Q3 2011	\$24,170,631	\$1,884,181	\$26,054,813	9.00%	\$26,622,239
Q4 2011	\$26,622,239	\$2,008,676	\$28,630,916	9.00%	\$29,254,445
Q1 2012	\$29,254,445	\$1,750,193	\$31,004,637	9.00%	\$31,679,862
Q2 2012	\$31,679,862	\$1,773,643	\$33,453,505	9.00%	\$34,182,061
Q3 2012	\$34,182,061	\$1,812,817	\$35,994,878	9.00%	\$36,778,781
Q4 2012	\$36,778,781	\$1,909,929	\$38,688,710	9.00%	\$39,531,280
Q1 2013	\$39,531,280	\$1,858,379	\$41,389,659	9.00%	\$42,291,050
Q2 2013	\$42,291,050	\$1,922,154	\$44,213,204	9.00%	\$45,176,087
Q3 2013	\$45,176,087	\$2,123,327	\$47,299,414	9.00%	\$48,329,510
Q4 2013	\$48,329,510	\$2,042,211	\$50,371,721	9.00%	\$51,468,725
Q1 2014	\$51,468,725	\$1,860,217	\$53,328,942	9.00%	\$54,490,349
Q2 2014	\$54,490,349	\$1,675,473	\$56,165,822	9.00%	\$57,389,011
Q3 2014	\$57,389,011	\$1,830,389	\$59,219,400	9.00%	\$60,509,091
Q4 2014	\$60,509,091	\$1,835,808	\$62,344,899	9.00%	\$63,702,658
Q1 2015	\$63,702,658	\$1,713,821	\$65,416,479	9.00%	\$66,841,131
Q2 2015	\$66,841,131	\$1,261,448	\$68,102,579	9.00%	\$69,585,729
Q3 2015	\$69,585,729	-	\$69,585,729	9.00%	\$71,101,180
Q4 2015	\$71,101,180	-	\$71,101,180	9.00%	\$72,649,634
Q1 2016	\$72,649,634	-	\$72,649,634	9.00%	\$74,231,811
Q2 2016	\$74,231,811	-	\$74,231,811	9.00%	\$75,848,445
Q3 2016	\$75,848,445	-	\$75,848,445	9.00%	\$77,500,286
Q4 2016	\$77,500,286	-	\$77,500,286	9.00%	\$79,188,101
Q1 2017	\$79,188,101	-	\$79,188,101	9.00%	\$80,912,674
Q2 2017	\$80,912,674	-	\$80,912,674	9.00%	\$82,674,805

**Notes:**

(1) "Starting Accrued Royalties & Interest" equals prior period "Ending Accrued Royalties & Interest."

(2) Exhibit 2.1 (as attached to the May 19, 2017 Declaration of Michael J. Lasinski).

(3) Calculated as "Starting Accrued Royalties & Interest" plus "Prior Quarter Royalties."

(4) See, for example, GMG00000113206-208 at 206.

(5) Calculated as "Total Accrued Royalties & Interest" \* ((1 + Interest Rate) ^ 0.25).



*Green Mountain Glass LLC et al. v. Saint-Gobain Containers, Inc. et al.*

**DAILY INTEREST: JULY 1, 2017 - SEPTEMBER 30, 2017 AT 9% INTEREST RATE**

Exhibit 3.3

<b>Interest Period</b>	<b>Starting Accrued Royalties &amp; Interest (1)</b>	<b>Prior Quarter Royalties (2)</b>	<b>Total Accrued Royalties &amp; Interest (3)</b>	<b>Interest Rate (4)</b>	<b>Ending Accrued Royalties &amp; Interest (5)</b>
Q2 2017	\$80,912,674	-	\$80,912,674	9.00%	\$82,674,805
Q3 2017	\$82,674,805	-	\$82,674,805	9.00%	\$84,475,312
Total Interest - Q3 2017					\$1,800,507
Days in Period					92
Daily Interest - Q3 2017					\$19,570.73

**Notes:**

(1) "Starting Accrued Royalties & Interest" equals prior period "Ending Accrued Royalties & Interest." Q2 2017 per Exhibit 1.2.

(2) Exhibit 3.2.

(3) Calculated as "Starting Accrued Royalties & Interest" plus "Prior Quarter Royalties."

(4) See, for example, GMG00000113206-208 at 206.

(5) Calculated as "Total Accrued Royalties & Interest" \*  $((1 + \text{Interest Rate})^{(1/4)})$ .